

## **REMARKS**

Favorable reconsideration of this application is respectfully requested in view of the foregoing amendments and the following remarks.

Claims 3, 4 and 27 were previously cancelled without prejudice or disclaimer of the subject matter contained therein. Claims 1, 2, 5, 13, and 26 have been amended. Claims 1, 2, and 5-26 are pending in the present application, of which Claims 1, 2, 13, and 26 are independent.

### **Claim Rejection Under 35 U.S.C. §102**

Claims 1, 2, 5-9, 12-18, and 22-26 stand rejected under 35 U.S.C. §102(e)<sup>1</sup> as being anticipated by Talpade et al. (United States Patent Application Publication No.2004/0148520, hereafter Talpade). Applicants respectfully traverse this rejection.

Claim 1 recites (among other things) a feature of “a notification unit notifying only a flow source that is one of the other communication networks of the determination of the countermeasure implementation planning place, when the determination unit determines the flow source as the countermeasure implementation planning place for a reason that the unauthorized access was flowed into the user’s communication network.” As will be explained below, this feature of Claim 1 is a distinction over Talpade.

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1. At item 4 of the Office Action, the Examiner asserts that these claims are rejected under 35 U.S.C. §102(a), which is believed to be a typographical error, as Applicants believe that the Examiner intended to indicate §102(e).

On page 2, lines 11-15 of the Office Action, the Examiner asserts that Talpade teaches a notification unit notifying, a flow source adjacent to the user's communication network of the determination of the countermeasure implementation planning place, when the determination unit determines the flow source as the countermeasure implementation planning place for a reason that the unauthorized access was flowed into the user's communication network.

However, The Talpade reference states the following in paragraph 0024:

Specifically, the analysis engine configures the filter router(s) to advertise new routing information to the border and edge routers 220, 222, 224, 226, and 228. The new routing information from the filter router instructs the border and edge routers to reroute all DDoS and non-DDoS traffic destined for the customer network under attack to the filter router.

In other words, Talpade merely teaches that the analysis engine 232 notifies all of the border and edge routers 220, 222, 224, 226, and 228, which are all situated within the ISP network 202, (see paragraph 0016) of the new routing information that instructs the routers to reroute all the traffic to the filter router 230 only (i.e. the filter router 230 is not determined as the countermeasure implementation planning place).

Hence, at least one of the features of Claim 1, namely "a notification unit notifying only a flow source that is one of the other communication networks of the determination of the countermeasure implementation planning place, when the determination unit determines the flow source as the countermeasure implementation planning place for a reason that the unauthorized access was flowed into the user's communication network," is not disclosed in Talpade.

Anticipation requires the presence in a single prior art reference the disclosure of each and every element of the claimed invention, arranged as in the claim. In view of the distinction of Claim 1 noted above, at least one claimed element is not present in Talpade. Hence, Talpade does not anticipate Claim 1.

Each of independent Claims 2, 13, and 26 recites (among other things) at least one feature similar to the above noted feature of Claim 1. At least the features of each of Claims 2, 13, and 26 that are similar to the above noted features of Claim 1 similarly distinguish over Talpade.

Further, Claims 5-9, 12, 14-18, and 22-25 ultimately depend from their respective base claims, and so at least similarly distinguish over Talpade.

In view of foregoing discussion, the rejection of Claims 1, 2, 5-9, 12-18, and 22-26 is improper. Accordingly, withdrawal of the rejection is respectfully requested.

### **Claim Rejection Under 35 U.S.C. §103**

Claims 10, 11 and 19-21 are rejected under 35 U.S.C. §103(a) as being unpatentable over Talpade in view of Kaler et al. (United States Patent Application Publication No.2004/0003286, hereafter Kaler). Applicants respectfully traverse this rejection.

Claims 10, 11 and 19-21 depend from independent Claim 2. A basis for how Talpade is deficient vis-à-vis Claim 2 has been discussed above. The Office Action does not rely upon Kaler to compensate for these deficiencies, and in fact Kaler also fails to teach or

suggest these features. Hence, the noted feature of Claim 2 also is a distinction over Kaler.

Among other things, a *prima facie* case of obviousness must establish that the asserted combination of references teaches or suggests each and every element of the claimed invention. In view of the distinction of Claim 2 noted above, at least one claimed element is not present in the asserted combination references. Hence, the Office Action fails to establish a *prima facie* case of obviousness vis-à-vis Claim 2. Claims 10, 11 and 19-21 depend from independent Claim 2, and so at least similarly distinguish over the asserted combination of references.

In view of foregoing discussion, the rejection of the Claims 10, 11 and 19-21 is improper. Accordingly, withdrawal of the rejection is respectfully requested.

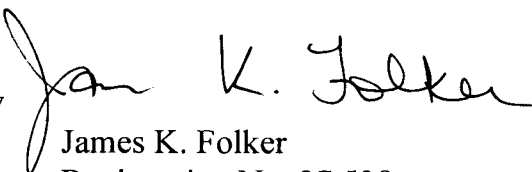
For all of the above reasons, Applicants request reconsideration and allowance of the claimed invention. Should the Examiner be of the opinion that a telephone conference would aid in the prosecution of the application, or that outstanding issues exist, the Examiner is invited to contact the undersigned attorney.

If a Petition under 37 C.F.R. §1.136(a) for an extension of time for response is required to make the attached response timely, it is hereby petitioned under 37 C.F.R. §1.136(a) for an extension of time for response in the above-identified application for the period required to make the attached response timely.

The Commissioner is hereby authorized to charge any additional fees which may be required to this Application under 37 C.F.R. §§1.16-1.17, or credit any overpayment, to Deposit Account No. 07-2069.

Respectfully submitted,

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